

1-1 By: Harris S.B. No. 1701
1-2 (In the Senate - Filed March 9, 2007; March 21, 2007, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 26, 2007, reported favorably by the following vote: Yeas 4,
1-5 Nays 0; April 26, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the appointment of a successor guardian for certain
1-9 wards adjudicated as totally incapacitated.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 161.101, Human Resources Code, is
1-12 amended by amending Subsection (d) and adding Subsection (f) to
1-13 read as follows:

1-14 (d) The department may not be required by a court to file an
1-15 application for guardianship, and except as provided by Subsection
1-16 (f) and Section 695, Texas Probate Code, the department may not be
1-17 appointed as permanent guardian for any individual unless the
1-18 department files an application to serve or otherwise agrees to
1-19 serve as the individual's guardian of the person or estate, or both.

1-20 (f) On appointment by a probate court under Section 695(c),
1-21 Texas Probate Code, the department shall agree to serve as the
1-22 successor guardian of the person or estate, or both, of a ward
1-23 described by that section.

1-24 SECTION 2. Section 695, Texas Probate Code, is amended by
1-25 adding Subsection (c) to read as follows:

1-26 (c) The court may appoint the Department of Aging and
1-27 Disability Services as a successor guardian of the person or
1-28 estate, or both, of a ward who has been adjudicated as totally
1-29 incapacitated if:

1-30 (1) there is no family member or other suitable
1-31 person, including a guardianship program, willing and able to serve
1-32 as the ward's successor guardian; and

1-33 (2) the ward is located more than 100 miles from the
1-34 court that created the guardianship.

1-35 SECTION 3. Subsection (b), Section 697A, Texas Probate
1-36 Code, is amended to read as follows:

1-37 (b) The Department of Aging and Disability Services, if the
1-38 department [~~files an application for and~~] is appointed to serve as
1-39 guardian or successor guardian for one or more incapacitated
1-40 persons residing in the county as provided by Subchapter E, Chapter
1-41 161, Human Resources Code, or Section 695(c) of this code, shall
1-42 submit annually to the county clerk the information required under
1-43 Subsection (a) of this section for each department employee who is
1-44 or will be providing guardianship services in the county on the
1-45 department's behalf.

1-46 SECTION 4. This Act takes effect immediately if it receives
1-47 a vote of two-thirds of all the members elected to each house, as
1-48 provided by Section 39, Article III, Texas Constitution. If this
1-49 Act does not receive the vote necessary for immediate effect, this
1-50 Act takes effect September 1, 2007.

1-51 * * * * *